IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE NINETEENTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.V.S.RAO

-

WRIT PETITION NO : 408 of 2004

Between:

Y.Savithramma, W/o Late Chenna Reddy
R/o Amadala Village, Koilkuntla Mandal, Kurnool District,

presently R/o. Kadiri Village & Mandal,
Ananthapur District.

..... PETITIONER

AND

The Special Deputy Collector (L.A.), Srisailam Right Branch Canal,
Banaganapally, Kurnool District.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to Issue a writ, order or direction or particularly one in the nature of Writ of Mandamus, declaring the action of the respondent in not paying the compensation amount of Rs.88,968/- to the petitioner which is kept in the revenue deposit for acquiring 1.56 acres in Survey No.434/1B Amadala Village, Koilkuntla Mandal, Kurnool District pursuant to the award No.3/01-02 dt.11-06-2001, as illegal, arbitrary violative of Article 19, 21 and 300A of Constitution of India and consequently direct the respondent to pay the above stated award amount along with interest forthwith to the petitioner.

Counsel for the Petitioner: MR.K.RATHANGA PANI REDDY

Counsel for the Respondent: G.P.FOR LAND ACQUISITION

The Court made the following :

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.408 OF 2004

ORDER:

The petitioner's land admeasuring Acs.1.56 in S.No.434/1B was acquired for public purpose to wit construction of Srisailam Right Bank Canal (SRBC) under Award No.3/2001-2002, dt.11.6.2001 awarding a sum of Rs.36,000/- per acre. An amount of Rs.88,968/-, including all benefits was awarded by respondent herein. However, at the relevant time, petitioner was staying with her daughter at Kadiri in Ananthapur District. Therefore, she could not claim the amount. She alleges that though she approached the respondent on many occasions, the amount was not realized. Hence, present Writ Petition is filed seeking a Writ of Mandamus to the respondent to pay the amount of Rs.88,968/-.

The sole respondent has filed a counter affidavit. The fact of the matter is not disputed. However, it is alleged that when Executive Engineer, SRBC, Division No.2-1, Banaganapalle undertook work of excavation of canal, petitioner has objected and that the Executive Engineer, by letter dt.20.12.2002 requested the respondent for cancellation of acquisition. It is also stated that the amount awarded to the petitioner has been kept in revenue deposit and that possession was already taken and handed over to Executive Engineer.

It is no gainsaying to mention that when once an award is passed and possession is taken, it is impermissible for any authority to withdraw the land acquisition notification issued under the Land Acquisition Act, 1894 (for short, the Act). Further, under Section 48 of the Act power is conferred only on the Government to withdraw any notification for acquiring land subject to condition that when once possession is taken no such notification can be issued by the Government. In that view of the matter, either Executive Engineer or the respondent cannot prevent the petitioner from claiming the awarded amount which she is legitimately entitled. It must, however, be observed that when work is taken up, petitioner shall not interfere with the work.

The Writ Petition is therefore allowed giving liberty to petitioner to approach the respondent within a period of two weeks from today. As and when she approaches, the respondent shall withdrawn the amount from revenue deposit and pay the amount in accordance with law. There shall be no order as to costs.

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(V.V.S.RAO, J)

19.11.2004

bnr

Note:CC in one week.

(B.O)

bnr

The Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this

Friday, the Nineteenth day of November, Two Thousand and Four

DEPUTY REGISTRAR

To

1. The Special Deputy Collector (L.A)

Srisailam Right Branch Canal,

Banaganapally, Kurnool District.

2. 2CCs to G.P. for Land Acquisition, High Court Bldgs.,

Hyderabad (OUT)

3. 2 CD copies